IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5920 of 2005

Between:

Smt. P. Sridevi D/o. Late Appalaraju
R/o. Chintur (V & M) , Khammam District.

..... PETITIONER

AND

1 The Divisional Forest Officer, Bhadrachalam, Khammam District.
2 The Forest Range Officer, Chintur (V & M) Khammam District.
3 The Dy. Range Officer (Forest), Chintur Section, Chintur Range, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ or direction preferably writ of Mandamus directing the action of the 3rd Respondent in seizing the vehicle of the petitioner i.e. Tractor bearing No. AP 36 U-04709 on 11-2-2005 in case O.R.No. 19/2004-05 as illegal, arbitrary, and violative of principles of natural justice, and consequently direct the respondents to release the said Tractor to the petitioner without any further delay and pass such other or further orders.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondents: GP FOR FORESTS

This Court at the admission stage made the following :

O R D E R:

The petitioner claims to be the owner of Tractor bearing No.AP 36 U-4709. The said vehicle was seized on 11-02-2005 by the third respondent on the allegation that one G.Nageswar Rao and others have trespassed into the Reserved Forest in Kansuluru Reserved Forest and caused damage to the tree growth existing in the said locality by cutting teak trees and by dragging the timber from Reserved Forest to a convenient place by using the said tractor. The petitioner claims that she has nothing to do with the said allegations and therefore she approached the respondents for release of the vehicle, however the said request has not been entertained. The petitioner states that a case has been registered against the said Nageswara Rao and others for violating the provisions laid down under Section 20 (c) (i) (ii) (iii) (iv) (x) and (b) punishable under Section 20 (d) 2 of A.P. Forests Act, 1967 read with Sections 379, 34, 107 and 120-B of the Indian Penal Code. However, she is not an accused in the said crime and that there are absolutely no allegations against her. Hence, this writ petition seeking a declaration that the

action of the third respondent in seizing the vehicle in question is arbitrary and illegal and for a consequential direction to release the same.

I have heard the learned Counsel for the petitioner and the learned Government Pleader for Forests appearing for the respondents.

When the vehicle is seized on the ground of any forest offence, under Section 44 (1) of the A.P. Forests Act, 1967, such vehicle has to be produced either before the Magistrate concerned having jurisdiction or the Officer not below the rank of Assistant Conservator of Forests and ultimately if such officer is satisfied that the forest offence has been committed, the vehicle is liable to be confiscated. However, sub-Section (3) of Section 44 of the A.P. Forests Act, 1967 also provides for interim release of such seized vehicle. Hence, the petitioner ought to have made appropriate application before the Competent Authority for release of the vehicle in question.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of granting leave and liberty to the petitioner to make an appropriate application before the first respondent seeking release of the vehicle in question. If such an application is filed, the same shall be considered and appropriate orders be passed in accordance with law, as expeditiously as possible, preferably within a period of two weeks from the date of filing of the application. No costs.

(G. ROHINI, J)

Date:23-03-2005

ghn

To

1 The Divisional Forest Officer, Bhadrachalam, Khammam District.

2 The Forest Range Officer, Chintur (V & M) Khammam District.

3 The Dy. Range Officer (Forest), Chintur Section, Chintur Range, Khammam District.

4 Two CCs to the Government Pleader for Forests, High Court of A.P., Hyderabad. (O.U.T.).

5 Two CD copies.